

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region II

290 Broadway - 17th Floor
New York, New York 10007-1866

FACSIMILE REQUEST AND COVER SHEET

TO: Dennis Toft, Esq.

OFFICE: Wolff & Samson

PHONE:

FAX: 973-740-1407

FROM: Muthu S. Sundaram

OFFICE: Office of Regional Counsel
New Jersey Superfund Branch

PHONE: 212-637-3148

FAX: (212) 637-3096 Confirmation (212) 637-3251.

DATE: April 12, 1999

SUBJECT: LCP Site - Revision to AOC Draft

Number of Pages (including cover sheet):

Message:

Dennis: The revision to reimbursement provision is attached herewith.

Please call me regarding the resolution of the only remaining issue, i.e. time for completion of RI/FS from FOP. Time is of essence. I look forward to speak to you today.

Muthu

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XX. REIMBURSEMENT

76. ~~Within fifteen (15) days of~~ Respondent shall reimburse the United States for all response costs which are incurred by the EPA after the effective date of this Consent Order. ~~Respondent shall pay \$106,060.95 to EPA in reimbursement of past response~~ and which relate to this Consent Order. The response costs which Respondent agrees to reimburse EPA for include, but are not limited to, oversight costs, direct and indirect costs, payroll costs, contractor costs, travel costs, laboratory costs and all other costs identified in paragraph 77., below, which are incurred by EPA after the effective date of this Consent Order.

77. EPA will periodically send Respondent billings for response costs. Those billings will be accompanied by a printout of cost data in EPA's financial management system, supplemented, if necessary, by a letter report(s) documenting additional costs incurred by EPA ~~at the Site~~ which are not reflected in that printout. The billings will also be accompanied by a calculation of EPA's indirect costs. Such costs may include, but are not limited to, costs incurred by the United States Government in overseeing Respondent's implementation of the requirements of this Consent Order and activities performed by the United States Government as part of the RI/FS and community relations, including any costs incurred while obtaining access. Such costs will include both direct and indirect costs, including but not limited to, time and travel costs of EPA personnel and associated indirect costs, contractor costs, cooperative agreement costs, costs of compliance monitoring, including the collection and analysis of split samples, inspection of RI/FS activities, Site visits, discussions regarding disputes that may arise as a result of this Consent Order, review and approval or disapproval of reports, costs of performing the baseline risk assessment, and costs of redoing any of Respondent's tasks. Respondent shall ~~remit a cashier's or certified check for the amount of those costs, made payable to the "Hazardous Substance Superfund," or provide payment to our account at Mellon Bank via EFT, following the instructions listed in paragraph 64, above.~~

~~77. Within fifteen (15) days of notification, Respondent shall fully reimburse EPA for any other additional past response costs incurred by EPA in relation to the Site up to the date of final execution of this Order. Respondent shall, within thirty (30) days of receipt of each such billing, remit a cashier's or certified check for the amount of those costs, made payable to the "Hazardous Substance Superfund," or provide payment to our EPA's account at Mellon Bank via EFT, following the instructions listed in paragraph 64, above..~~

78. Respondent shall mail the payments required pursuant to this Section to the following address:

EPA - Region II
Attn: Superfund Accounting

P.O. Box 360188M
Pittsburgh, PA 15251

or provide payment to EPA's account at Mellon Bank via EFT following the instructions listed in paragraph 64, above.

Checks shall include the name of the Site, and the index number of this Consent Order. A copy of each check and of the accompanying transmittal letter shall be sent to the first two addressees listed in paragraph 37, above.

79. Respondent shall pay interest on any amounts overdue under paragraph 76. Such interest shall begin to accrue on the first day that the respective payment is overdue. Interest shall accrue at the rate of interest on investments of the Hazardous Substances Superfund, in accordance with Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

XXI. RESERVATIONS OF RIGHTS AND REIMBURSEMENT OF OTHER COSTS

80. EPA reserves the right to bring an action against Respondent (and/or any other responsible parties) under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of all response costs incurred by the United States relating to the Site that are not reimbursed by Respondent, including, but not limited to ~~oversight costs, any costs,~~ all response costs which were incurred by EPA prior to the effective date of this Consent Order, any costs which may be incurred in the event that EPA performs the RI/FS or any part thereof and ~~any future~~ all response costs incurred by the United States ~~in connection with response activities conducted under CERCLA~~ after the effective date of this Consent Order for response actions relating to the Site.